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Counsel to the Debtors and  
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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

- - - - - X  
In re: : Chapter 11  
:  
CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)  
et al., :  
:  
Debtors. : Jointly Administered  
- - - - - X

**MOTION OF THE DEBTORS FOR ORDER (I) PURSUANT TO 11 U.S.C.  
§ 105 AND FED. R. BANKR. P. 9020 (A) FINDING CREATIVE  
REALTY MANAGEMENT LLC IN CIVIL CONTEMPT AND (B)  
COMPELLING COMPLIANCE WITH ORDER AND IMPOSING SANCTIONS  
FOR VIOLATIONS THEREOF, OR (II) GRANTING THE DEBTORS  
RELIEF UNDER FED. R. BANKR. P. 9024 AND FED. R. CIV. P.  
60 FROM ORDER ASSUMING, ASSIGNING, AND SELLING CERTAIN  
LEASES TO CREATIVE REALTY MANAGEMENT LLC**

The debtors and debtors in possession in the  
above-captioned jointly administered cases (collectively,

the "Debtors")<sup>1</sup> hereby move (the "Motion") for entry of an order (I) pursuant to section 105 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 9020 and 9024 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") (A) finding Creative Realty Management LLC (the "Assignee") in civil contempt and (B) compelling the Assignee to comply with the Order Authorizing Debtors to Assume, Assign and Sell Unexpired Lease and Sublease of Non-Residential Real Property entered on June 10, 2009 (the "Assignment Order"), a copy of which is annexed as Exhibit 1, and imposing sanctions against Assignee for violating the Assignment Order, or (II) granting the Debtors relief from the Assignment Order by vacating such order pursuant to Rule 60 of the

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<sup>1</sup> The Debtors and the last four digits of their respective taxpayer identification numbers are as follows: Circuit City Stores, Inc. (3875), Circuit City Stores West Coast, Inc. (0785), InterTAN, Inc. (0875), Ventoux International, Inc. (1838), Circuit City Purchasing Company, LLC (5170), CC Aviation, LLC (0841), CC Distribution Company of Virginia, Inc. (2821), Circuit City Properties, LLC (3353), Kinzer Technology, LLC (2157), Abbott Advertising Agency, Inc. (4659), Patapsco Designs, Inc. (6796), Sky Venture Corp. (0311), PRAHS, Inc. (n/a), XSStuff, LLC (9263), Mayland MN, LLC (6116), Courchevel, LLC (n/a), Orbyx Electronics, LLC (3360), and Circuit City Stores PR, LLC (5512). The address for Circuit City Stores West Coast, Inc. is 9250 Sheridan Boulevard, Westminster, Colorado 80031. For all other Debtors, the address was 9950 Mayland Drive, Richmond, Virginia 23233 and currently is 4951 Lake Brook Drive, Glen Allen, VA 23060.

Federal Rules of Civil Procedure (the "Federal Rules"), made applicable by Bankruptcy Rule 9024. In support of the Motion, the Debtors respectfully state as follows:

**PRELIMINARY STATEMENT**

1. As this Court will recall, on June 9, 2009, this Court held a contested hearing (the "Hearing") concerning the assumption and assignment of the Leases (as defined herein) to the Assignee, and, on June 10, 2009, the Court entered the Assignment Order. Notwithstanding the Debtors' repeated communications concerning closing, i.e., wiring \$175,000, on June 11, 2009, the Assignee alleged that the Debtors had breached the Assignment Agreement (as defined herein), stated it would not close, and refused to wire \$175,000 to the Debtors.

2. Since then, the Debtors have attempted in good faith to work with the Assignee and the Landlord to resolve any issues, but have been unsuccessful. The Assignee's continued refusal to comply with the Assignment Order constitutes a blatant disregard of this Court's order.

3. To cease this unlawful act, to deter future violations, and to compensate the Debtors for the harm caused thereby, the Debtors respectfully request this Court enter an order compelling the Assignee to comply with the Assignment Order, holding the Assignee in civil contempt, and imposing appropriate sanctions.

4. In the event the Court is not inclined to compel the Assignee to comply with the Assignment Order, the Debtors respectfully request that the Court vacate the Assignment Order, which will have the effect of deeming the Lease (as defined herein) (and consequently, the Sublease (as defined herein)) rejected as of June 8, 2009.

#### **JURISDICTION AND VENUE**

5. This Court has jurisdiction to consider this Motion under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue of these cases and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

6. The statutory and legal predicates for the relief requested herein are Bankruptcy Code section

105 and Bankruptcy Rules 9020 and 9024 and Federal Rule 60(b).

## **BACKGROUND**

### **A. The Bankruptcy Cases.**

7. On November 10, 2008 (the "Petition Date"), the Debtors filed voluntary petitions in this Court for relief under chapter 11 of the Bankruptcy Code.

8. The Debtors continue to manage and operate their businesses as debtors in possession pursuant to Bankruptcy Code sections 1107 and 1108.

9. On November 12, 2008, the Office of the United States Trustee for the Eastern District of Virginia appointed a statutory committee of unsecured creditors (the "Creditors' Committee"). To date, no trustee or examiner has been appointed in these chapter 11 cases.

10. On January 16, 2009, the Court authorized the Debtors, among other things, to conduct going out of business sales at the Debtors' remaining 567 stores pursuant to an agency agreement (the "Agency Agreement") between the Debtors and a joint venture, as agent (the "Agent"). On January 17, 2009, the Agent commenced going

out of business sales pursuant to the Agency Agreement at the Debtors remaining stores. As of on or about March 8, 2009, the going out of business sales concluded.

**B. The Leases.**

11. Circuit City Stores, Inc. ("Circuit City"), as successor in interest to Service Merchandise Company, Inc., and Simon Property Group (Illinois) LP, as successor in interest to C.Y.A., Inc., are parties to a lease agreement dated September 19, 1986, for premises located at 340 West Army Trail Road (the "Premises") in Bloomingdale, Illinois (the "Lease"). Pursuant to a sublease with Dollar Tree Stores, Inc. (the "Sublease", together, with the Ground Lease, the "Leases"), Circuit City subleases a portion of the Premises to Dollar Tree Store, Inc. ("Sublessee").

**C. The Sale Motion.**

12. The Debtors, along with their real estate advisor, DJM Realty, LLC ("DJM"), marketed the Debtors' numerous leases of nonresidential real property to prospective buyers, including the Leases. Following an extensive marketing process, the Debtors received one bid from the Assignee and determined that such bid submitted

was the highest or otherwise best proposal for the Leases. The Assignee's bid was memorialized in the form of an assumption, assignment and sale agreement (the "Assignment Agreement") and specifically provided that the Assignee agreed to unconditionally pay \$175,000.00 to the Debtors upon closing the Sale.<sup>2</sup> Thus, the Debtors elected to proceed with the assumption and assignment of the Leases to the Assignee pursuant to the Assignment Agreement.

13. To that end, on May 2, 2009, the Debtors filed the Debtors' Motion for Order Pursuant to Bankruptcy Code Sections 105, 363 and 365 (A) Authorizing Debtors to Enter into Agreement in Connection with Sale and Assignment of Unexpired Lease and Sublease of Nonresidential Real Property, Subject to Higher or Otherwise Better Bids, (B) Approving Termination Fee in Connection Therewith, (C) Approving Sale of Lease and Sublease Free and Clear of All Interests, and (D) Granting Related Relief (the "Sale Motion").

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<sup>2</sup> Pursuant to the Assignment Agreement, \$26,250.00 of the sale price was to be deposited in escrow and the balance to be paid upon closing. However, no deposit was ever put in escrow, so the total amount, \$175,000 continues to be due and owing from the Assignee.

14. Pursuant to the Sale Motion, and to ensure the Debtors received the highest or otherwise best offer for the Leases, the Debtors solicited alternate proposals for the Leases. However, no other proposals were received.

**D. The Landlord's Objections And The Sublessee's Informal Response.**

15. Prior to the deadline to object to the Sale Motion Simon Properties, Inc. (the "Landlord") filed its objection (the "Landlord Objection"). The Landlord Objection challenged the cure amount under and objected to the Sale Motion to the extent the tenant mix would be affected in contravention to § 365(b)(3)(D) of the Bankruptcy Code.

16. Additionally, the Sublessee requested certain changes to the Assignment and exhibits. The Debtors consensually resolved the Sublessee's concerns with certain minor modifications, none of which adversely affected the Assignee.

**E. The Sale Hearing And The Closing.**

17. On June 9, 2009, the Court held a contested hearing on the Sale Motion and the Landlord



Objection. At the conclusion of the Sale Hearing, the Landlord Objection was overruled and the Sale Motion was approved. The Assignment Order was entered on June 10, 2009.

18. Pursuant to the Assignment Order, the "Effective Date" of the assumption, assignment, and sale of the Leases was June 9, 2009 and the Assignee was obligated to closing immediately under the Assignment Agreement. See Assignment Order ¶ 8; Assignment Agreement ¶ 2. Additionally, pursuant to the Assignment Order, the Debtors were obligated to pay the undisputed cure amount totaling \$147,969.30 (the "Cure Amount").

19. Immediately after the entry of the Assignment Order, the Debtors contacted the Assignee with wire instructions for purchase price of the Lease in order to close. The Assignee did not respond.

20. The following day, on June 11, 2009, the Debtors again emailed requesting payment. In response, the Assignee notified the Debtors by email (the "June 11 Email") that (i) the Assignee had advised the Debtors' professionals on June 10, 2009, that the Assignment Agreement and the Assignment Order were not acceptable,

and (ii) the Assignee contended that the Debtors were in breach of the Assignment Agreement and the Termination Fee (as defined therein) was due. See June 11 Email. A copy of the June 11 Email is annexed as Exhibit 2.

21. Specifically, the June 11 Email provided as follows:

Skadden was informed yesterday that the changes to the Assignment and Order were not acceptable to us and that the signature page attached from a previous Assignment was not valid. We do not know why they were submitted to the court despite these objections. Additionally, we do not have an estoppel from the Landlord as was outlined in our offer and listed as an exhibit under the initial Order. Our position is that the Debtor has not performed and the break up fee is now due. Thank you.

June 11 Email.

22. Contrary to the statements in the June 11 Email, the Assignment Agreement was the agreement originally executed by the Assignee and annexed to and filed with the Sale Motion. In addition, counsel to the Debtors was never informed that there were problems with the proposed form of order. Moreover, the changes to the Assignment Order were made to correct factual inaccuracies concerning payment of the deposit, which had not been made, adjust the effective date to the date on

which this Court issued its ruling, and address clarifications requested by the Landlord and Sublessee, none of which adversely affected the Assignee.

**RELIEF REQUESTED**

23. By this Motion, the Debtors hereby request that this Court enter an order finding the Assignee in civil contempt, compelling the Assignee to comply with the Assignment Order, and imposing sanctions against Assignee for its willful disregard thereof. In the event the Court does not compel compliance with the Assignment Order, the Debtors request that the Court vacate the Assignment Order under Federal Rule 60(b), made applicable by Bankruptcy Rule 9024.

**BASIS FOR RELIEF**

24. Under the Assignment Order, the Assignee was obligated to pay the Debtors \$175,000 in immediately available funds on the June 10, 2009. In turn, the Debtors were obligated to remit payment of the Cure Amount.

25. As set forth herein, the Assignee has repeatedly refused to close since June 11, 2009 and has

left the Debtors with no choice other than to seek relief from this Court.

#### **APPLICABLE AUTHORITY**

**I. BECAUSE THE ASSIGNEE REFUSED TO CLOSE AND VIOLATED THE ASSIGNMENT ORDER, THE ASSIGNEE SHOULD BE HELD IN CIVIL CONTEMPT.**

26. Bankruptcy Code section 105(a) "authorizes a bankruptcy court to hold a party in civil contempt for failing to comply with a previous order." Cherry v. Arendall (In re Cherry), 247 B.R. 176, 186-87 (Bankr. E.D. Va. 2000) (citing Burd v. Walters (In re Walters), 868 F.2d 665 (4th Cir. 1989)). Moreover, bankruptcy courts have inherent power to sanction contemptuous conduct to define the rights the courts have created. Burd v. Walters (In re Walters), 868 F.2d 665, 670 (4th Cir. 1989) ("If Congress can constitutionally create legal presumptions, assign burdens of proof and prescribe legal remedies for Article I courts, it seems to follow that it can constitutionally grant them the power to enforce their lawful orders through civil contempt."); Colonial Williamsburg Foundation v. Kittinger Co., 792 F. Supp. 1397, 1405 (E.D. Va. 1992) (stating that it is a long-recognized principle that the

courts have inherent ability to protect and enforce their orders). Thus, violations of bankruptcy court orders are punishable by civil contempt. Id.

27. To establish civil contempt, this Court must find: "(1) the existence of a valid decree of which the alleged contemnor had actual or constructive knowledge; (2) [t]hat the decree was in the movant's 'favor'; (3) [t]hat the alleged contemnor by its conduct violated the terms of the decree, and had knowledge (at least constructive knowledge) of such violations; and (4) . . . that [the] movant suffered harm as a result." Ashcraft v. Conoco, Inc., 218 F.3d 288, 301 (4th Cir. 2000) (citation omitted). Moreover, "[i]n a civil contempt proceeding, the state of mind with which the contemnor violated a court order is irrelevant and therefore good faith, or the absence of an intent to violate the order, is no defense." Cherry, 247 B.R. at 187 (citation omitted). These elements must be shown by clear and convincing evidence. Ashcraft, 218 F.3d at 301.

28. Here, as discussed below, the standard has been met. First, the Assignment Order constitutes a

valid decree of this Court and the Assignee had actual knowledge of the Assignment Order when it refused to close.

29. Second, the Assignment Order was entered in the Debtors' favor. Specifically, the Assignment Order approved the assumption, assignment and sale of the Leases to the Assignee in exchange for payment of \$175,000.

30. Third, by refusing to close under Assignment Agreement, the Assignee knowingly violated (and continues to violate) the Assignment Order. Indeed, shortly after the Assignment Order was entered on June 10, 2009, the Debtors forwarded an email to the Assignee that included the Court's electronic notification that the Assignment Order had been docketed. Moreover, in the June 11 Email, the Assignee acknowledged that the Assignment Order had been entered. See June 11 Email (responding to email forwarding Assignment Order).

31. Fourth, and finally, the Debtors have been harmed, and continue to suffer harm, as a result of the Assignee's blatant disregard and violation of the Assignment Order. Specifically, because of Assignee's

actions, the Debtors are not receiving their bargained for benefit of \$175,000. Moreover, even without receiving the bargained for sales price of the Leases, the Debtors are still required to pay the Cure Amount.

32. In addition to such pecuniary harm, the Assignee's actions are causing the Debtors to incur significant costs and expenses (including attorneys' fees).

33. Consequently, the Assignee should be held in civil contempt.

**II. THE ASSIGNEE SHOULD BE COMPELLED TO COMPLY WITH THE ASSIGNMENT ORDER AND IMPOSE SANCTIONS.**

34. Under Bankruptcy Code section 105, in contempt proceedings, courts have consistently concluded that bankruptcy courts may issue orders designed to "coerce the defendant into compliance with the court's order, and to compensate the complainant for losses sustained." Cherry, 247 B.R. at 187 (citing United States v. United Mine Workers, 330 U.S. 258, 303 (1947)).

35. More specifically, there is no question that courts have the ability to enforce their own orders. Spallone v. U.S., 493 U.S. 265, 276 (1990) ("[C]ourts have inherent power to enforce compliance with their lawful orders through civil contempt."). Additionally, courts may issue appropriate sanctions, including (without limitation) actual and punitive damages, interest, and attorneys' fees, in favor of the moving party. See Better Homes of Virginia, Inc. v. Budget Service Company, 52 B.R. 426, 431-32 (E.D. Va. 1985) (holding creditor in civil contempt and granting debtors actual damages, punitive damages and attorneys' fees); see also In re Gentry, 275 B.R. 747, 753 (Bankr. W.D. Va.



2001) (granting civil contempt motion and ordering payment pursuant to original order plus interest on that amount and attorneys' fees incurred); In re Computer Dynamics, Inc., 253 B.R. 693, 698-99 (E.D. Va. 2000) ("Courts have broad discretion in selecting appropriate contempt sanctions" and "bankruptcy courts . . . can take any action or make any determination necessary or appropriate to enforce or implement court orders.").

36. In light of the Assignee's actions, this Court has the authority to compel the Assignee to comply with the Assignment Order and impose appropriate sanctions and should exercise such authority. In the event the Court does not compel the Assignee to comply with the Assignment Order, the Debtors nonetheless request appropriate sanctions in addition to relief under Federal Rule 60(b).

**III. IF THE COURT DOES NOT COMPEL COMPLIANCE WITH ITS ORDER, THE COURT SHOULD GRANT THE DEBTORS RELIEF FROM THE ASSIGNMENT ORDER UNDER FEDERAL RULE 60(B)(2), (3), OR (6).**

37. Federal Rule 60(b), made applicable under Bankruptcy Rule 9024, provides that

(b) On motion and just terms, the court may relieve a party or its legal representative from

a final judgment, order or proceeding for the following reasons:

. . .

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud . . ., misrepresentation, or misconduct by the opposing party;

. . .

(6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b)(2), (3), (6).

38. Courts in this District have applied a two-part analysis under Federal Rule 60(b). See Parker v. North Carolina Agric. Fin. Auth., 341 B.R. 547, 552-53 (E.D. Va. 2006)(citing Dowell v. State Farm Fire & Cas. Ins. Co., 993 F.2d 46, 48 (4th Cir. 1993)). First, this Court should apply a threshold standard, requiring the movant to establish that: (1) the motion is timely, (2) the movant has a meritorious claim, (3) the opposing party will not be unfairly prejudiced by having the judgment set aside and (4) that "exceptional circumstances" exist. Id. Second, this Court should determine whether relief is warranted under one of the subsections of Federal Rule 60(b). Id.

**A. The Threshold Showings Have Been Met.**

39. First, because this Motion was filed within one week after the Assignment Order was entered, there can be no reasonable dispute that this Motion is timely. See Park Corp. v. Lexington Ins. Co., 812 F.2d 894, 896 (4th Cir. 1987)(finding motion timely where filed within 15 days of date party learned of judgment).

40. Second, the Debtors have a meritorious claim against the Assignee. As set forth above, the Assignee entered into the Assignment Agreement pursuant to which the Assignee is required to pay the consideration provided for under the Assignment Order and Assignment Agreement.

41. Third, the Assignee will not be unfairly prejudiced by having the Assignment Order vacated. The Assignee has already refused to comply with its obligations under the Assignment Order and accordingly, will not be unfairly prejudiced should that Order be set aside. Moreover, the Landlord will not be prejudiced because the Landlord originally contested the assumption, assignment and sale by opposing the Sale Motion. On the other hand, the Debtors will be significantly prejudiced

if the Assignment Order is not vacated, as the Debtors will be required to pay the Cure Amount to the Landlord, but will not receive anything from the Assignee.

42. Fourth, and finally, exceptional circumstances exist. As set forth above, the Debtors submitted the Assignment Order to the Court for entry in good faith and with a reasonable expectation that the Assignee would comply therewith. Only after entry of the Assignment Order did the Assignee refuse to comply with the terms of the Assignment Order. Absent relief from the Assignment Order, the Debtors will nonetheless be required to pay the Cure Amount, but will receive nothing in exchange from the Assignee. Given the Assignee's improper and misleading actions and the resulting prejudice to the Debtors, there are sufficiently exceptional circumstances to warrant relief from the Assignment Order.

**N. Relief Is Warranted Under Federal Rule 60(b)(2), (3) or (6).**

43. Because the four threshold requirements are met, the Court may grant relief from the Assignment Order for any of the reasons enumerated in Federal Rule

60(b). See Parker, 341 B.R. at 553. Here, the Court may grant the requested relief based upon Federal Rule 60(b)(2), (3) or (6). In particular, the Debtors believe that the Order should be vacated due to (1) newly discovered evidence of the Assignee's intent not to close under the Assignment Agreement, (2) the Assignee's misrepresentation regarding its intent to proceed with the sale of the Leases absent higher or better bids, and (3) for the additional reasons set forth herein, including the prejudice and inequity that would result to the Debtors and their estates if the Assignment Order is not vacated.

44. Accordingly, the Debtors submit that relief from the Assignment Order is warranted under Federal Rule 60(b)(2), (3) or (6).

#### **NOTICE**

45. Notice of this Motion has been provided to those parties entitled to notice under the Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures (D.I. 130; the

"Case Management Order"). The Debtors submit that, under the circumstances, no other or further notice need be given.

**WAIVER OF MEMORANDUM OF LAW**

46. Pursuant to Local Bankruptcy Rule 9013-1(G), and because there are no novel issues of law presented in the Motion, the Debtors request that the requirement that all motions be accompanied by a written memorandum of law be waived.

**NO PRIOR REQUEST**

47. No previous request for the relief requested herein has been made to this Court in these bankruptcy cases.

**CONCLUSION**

WHEREFORE, the Debtors respectfully request that this Court enter an Order granting the relief requested herein and such other and further relief as is just and proper.

Dated: June 17, 2009  
Richmond, Virginia

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& FLOM, LLP

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Counsel to the Debtors and  
 Debtors in Possession

IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE EASTERN DISTRICT OF VIRGINIA  
 RICHMOND DIVISION

- - - - - x  
 In re: : Chapter 11  
 :  
 CIRCUIT CITY STORES, INC., : Case No. 08-35653 (KRH)  
et al., :  
 :  
 Debtors. : Jointly Administered  
 - - - - - x

ORDER GRANTING MOTION OF THE DEBTORS FOR ORDER (I)  
 PURSUANT TO 11 U.S.C. § 105 AND FED. R. BANKR. P. 9020 (A)  
 FINDING CREATIVE REALTY MANAGEMENT LLC IN CIVIL CONTEMPT  
 AND (B) COMPELLING COMPLIANCE WITH ORDER AND IMPOSING  
 SANCTIONS FOR VIOLATIONS THEREOF, OR (II) GRANTING THE  
 DEBTORS RELIEF UNDER FED. R. BANKR. P. 9024 AND FED. R.  
 CIV. P. 60 FROM ORDER ASSUMING, ASSIGNING, AND SELLING  
 CERTAIN LEASES TO CREATIVE REALTY MANAGEMENT, LLC



Upon consideration of the motion (the "Motion")<sup>1</sup> of the Debtors for entry of an order (I) pursuant to section 105 of title 11 of the United States Code (the "Bankruptcy Code") and Rule 9020 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") (A) compelling the Creative Realty Management LLC (the "Assignee") to comply with the Order Authorizing Debtors to Assume, Assign and Sell Unexpired Lease and Sublease of Non-Residential Real Property entered on June 10, 2009 (the "Assignment Order") and (B) finding the Assignee in civil contempt and imposing sanctions against Assignee for violating the Assignment Order, or (II) granting the Debtors relief from the Assignment Order by vacating such order pursuant to Rule 60 of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable under Bankruptcy Rule 9024; and the Court finding that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; (ii) this is a core proceeding under 28 U.S.C. § 157(b); (iii)(a) the Assignment Order is a valid decree of which the Assignee

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<sup>1</sup> Each capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Motion.

had actual and constructive knowledge, (b) Assignment Order was entered in the Debtors' favor, (c) the Assignee violated the terms of the Assignment Order by, among other things, refusing to close, and had actual knowledge (and constructive knowledge) of such violation; and (d) the Debtors suffered harm as a result of Assignee's conduct; (iv) the relief requested in the Motion is in the best interest of the Debtors, their estates, and their creditors; (v) proper and adequate notice of the Motion and the hearing thereon has been given and no other or further notice is necessary; and (vi) upon consideration of the Motion and all of the proceedings, including the hearing held on June 23, 2009 (the "Hearing"), had before the Court in connection therewith, good and sufficient cause exists for granting of the relief requested in the Motion; it is hereby

**ORDERED, ADJUDGED, AND DECREED that:**

1. The Motion is GRANTED.
2. Creative Management Realty, LLC is adjudged in civil contempt for violation of the Assignment Order.

3. Creative Management Realty, LLC shall comply with all aspects of the Assignment Order, including (without limitation) by wiring \$175,000 to the Debtors immediately.

4. Creative Management Realty, LLC shall pay to the Debtors compensatory sanctions in the amount of all of the Debtors' losses associated with the Leases since entry of the Assignment Order, including (without limitation) attorneys' fees, costs and interest, and other damages as and to the extent set forth on the record at the Hearing.

5. The requirement under Local Rule 9013-1(G) of the Local Rules for the United States Bankruptcy Court for the Eastern District of Virginia to file a memorandum of law in connection with the Motion is hereby waived.

6. This Court shall retain jurisdiction with respect to all matters arising from or related to this Order.

Dated: Richmond, Virginia  
June \_\_\_\_\_, 2009

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UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

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Counsel to the Debtors and Debtors in Possession

**CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

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